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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,113	01/07/2002	Ulrich Braun	VOSS1170	5907
Lisa A Haile Gray Cary Ware & Freidenrich Suite 1600 4365 Executive Drive San Diego, CA 92121				
7590 06/30/2008			EXAMINER FETSUGA, ROBERT M	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 06/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/890,113

Applicant(s)

BRAUN, ULRICH

Examiner

Robert M. Fetsuga

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7-15,17,19 and 20 is/are pending in the application.
4a) Of the above claim(s) 7-10,17,19 and 20 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,5 and 11-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 April 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. Applicant is advised the April 29, 2008 amendment to paragraph 0029 does not comply with 37 CFR 1.121 as the previous amendment of March 15, 2004 is not reflected thereby.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "located deeper in the toilet bowl than the urine outlet" feature set forth in claims 1 and 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR

1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 1, 5 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "urine separating toilet" is intended to be part of the claimed combination since structure of the "device" is defined as being connected thereto (lns. 11-13), but no positive structural antecedent basis therefor has been defined.

Claim 11 is unclear as to whether the "toilet" is intended to be part of the claimed combination since structure of the "device" is defined as being connected thereto (lns. 3-4, 8-9), but no positive structural antecedent basis therefor has been defined. Claim 5 is similarly indefinite. Applicant did not address this rejection in the response filed April 29, 2008.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5 and 11-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Geeham '850.

The Geeham '850 (Geeham) reference discloses a device comprising: a device for opening 18; a device for closing 52b; and a feature 65, as claimed. Re claims 1 and 11, the initial statement of intended use (urine separating toilet), and all other functional implications related thereto, have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Geeham.

Applicant argues at page 10 of the response (and similarly at page 11) Geeham "renders the water-free collection and disposal of urine impossible." The examiner disagrees. A use of the Geeham toilet 10, subsequent to the action depicted in Fig. 5, would readily function "for water-free disposal of urine", "wherein no liquids remain around or upon the closed urine outlet", as claimed. Applicant further argues at page 10 of the response that sitting down on or rising up from the toilet 10 in Geeham does not cause the opening or closing of the urine outlet. The examiner agrees, however, applicant's claims do not specify this argued methodology. Claim 1 merely states,

for example, "a device for closing the urine outlet if the user rises". This futuristic functional claim limitation does not define any distinguishing structure of the "device for a urine separating toilet" over that disclosed by Geeham. Moreover, even if the newly added "flow-off edge" limitation was considered part of the subject matter intended to be excluded from the public, the Geeham toilet exhibits such an edge associated with aperture 15 (Fig. 1). Still further, the Geeham toilet includes a bowl 12 having protrusions 26,34.

6. Claims 1, 2, 5 and 11-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wilhelm.

The Wilhelm reference discloses a device comprising: a device for opening 43; a device for closing 41; and a feature (col. 2 lns. 62-65), as claimed. Re claims 1 and 11, the initial statement of intended use (urine separating toilet), and all other functional implications related thereto, have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Wilhelm.

Applicant argues at page 12 of the response "the Wilhelm toilet does not have two outlets connected to two separate drainage pipes, like the present invention." This argument is considered moot as applicant's disclosed invention does not include two separate drainage pipes as is clearly evident from

an inspection of Fig. 1. The urine outlet 106 of applicant's invention merely empties into the "cross-section through the faecal siphon 101", much like with the Wilhelm device.

Applicant's remaining arguments at page 12 of the response directed to the futuristic language of the claims are deemed unpersuasive for reasons analogous to those set forth supra regarding Geeham.

7. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

8. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

/Robert M. Fetsuga/
Robert M. Fetsuga
Primary Examiner
Art Unit 3751